

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of ALEXANDRE KRIS GRIFFIN  
and BRANDON TAYLOR ESCH, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

V

HEATHER L. GRIFFIN,

Respondent-Appellant,

and

KRIS GRIFFIN,

Respondent.

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In the Matter of Matter of ALEXANDRE KRIS  
GRIFFIN, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

V

KRIS GRIFFIN,

Respondent-Appellant,

and

HEATHER L. GRIFFIN,

Respondent.

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UNPUBLISHED

August 21, 2008

No. 284612

St. Clair Circuit Court

Family Division

LC No. 07-000472-NA

No. 284703

St. Clair Circuit Court

Family Division

LC No. 07-000472-NA

Before: Cavanagh, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right from an order that terminated respondent mother's parental rights to both children pursuant to MCL 712A.19b(3)(b)(ii) and (j) and respondent father's parental rights to Alexandre pursuant to MCL 712A.19b(3)(b)(i) and (j). We affirm. These appeals have been decided without oral argument pursuant to MCR 7.214(E).

The trial court did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The petition alleged that, on August 7, 2007, respondent father masturbated in a counseling session when both respondent mother and his then two-year-old son were present. Based on this incident, respondent mother was advised that she needed to increase her supervision of the children. She failed to do so, and on August 27, 2007, respondent father sexually assaulted his son. Respondent mother denied knowing what happened but admitted that respondent father told her he had done "something bad." She refused to believe that the incident occurred, despite respondent father's admission to police.

Respondent mother argues that because the worker took no action to remove the children after discovering them home alone with respondent father on August 23, 2007, any ensuing abuse was unforeseeable. Regardless of the worker's action, respondent mother was in a better position to protect the children and failed to do so. She testified that on the day before the worker's unexpected visit, respondent father admitted that "something bad" had happened but continued to allow him to have time alone with the children. In addition, she acknowledged that respondent father had lately been acting out sexually with her. The agency's decision to not offer services was justifiable where respondent mother refused to acknowledge what happened, even after respondent father's admission. Her steadfast refusal to acknowledge what happened demonstrates that she would not be able to protect the children in the future.

Respondent father argues that this was an isolated incident and was the direct result of his traumatic brain injury and the fact that he was under medicated. Other than his own mother's lay opinion on the subject, respondent father offered absolutely no evidence in the form of expert witness testimony to support this claim. The counselor to whom respondent father exposed himself believed that his injury could not excuse his behavior. Even if respondent father's behavior could have been explained by this injury, he still posed a risk of harm to his son.

Having found the statutory grounds for termination established by clear and convincing evidence, the trial court was obligated to terminate respondents' parental rights unless it appeared, on the whole record, that termination was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent father sexually abused his son, and respondent mother, having been in a position to protect him, failed to do so. Scant further evidence on best interests was offered by any party. The children's best interests did not preclude termination of respondents' parental rights.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Kathleen Jansen  
/s/ Kirsten Frank Kelly